

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

GROUP ART UNIT: 1761

BILLMERS, ET AL.

EXAMINER: TRAN LIEN, THUY

S.N. 10/646,429

FILED: 22 AUGUST 2003

FOR: STARCHES FOR REDUCED
FAT IN FRIED FOOD
SYSTEMS

Commissioner of Patents and Trademarks
PO Box 1450
Alexandria, VA 22313-1450

DECLARATION UNDER 37 C.F.R. § 1.131

Sir:

This declaration is to establish a date of conception of the subject matter of the present application in the United States or other region permitted by Rule prior to the publication date of United States Patent Publication No. 2003-0039741 A1, published on 27 February 2003, entitled "Co-processed Compositions Useful as Culinary Thickeners" to Carver et al. and subsequent diligence from a date earlier than the publication date of Publication No. 2003-0039741 until the filing date of the present application.

In support of this Declaration, I, Robert L. Billers, declare and state the following:

That the referenced patent application entitled "Starches for Reduced Fat in Fried Food Systems" in the name of Billmers, Robert et al. was filed in the United States Patent Office on 22 August 2003 and was assigned Application Serial No.: 10/646,429.

That the claimed subject matter of the referenced patent application stands subject to a final rejection under 35 U.S.C. § 103(a) for three claims of obviousness: Two of such claims are in part supported by United States Patent Publication No. 2003-0039741 A1 published on 27 February 2003 entitled “Co-processed Compositions Useful as Culinary Thickeners” to Carver et al; the third claim is supported solely by United States Patent Publication No. 2003-0039741 A1 published on 27 February 2003 entitled “Use of Converted Low-Viscosity, High Solids Starch in Foods” to Shi et al.

That the subject matter of present patent application which supports the claims of the present application including, but not limited to, the claim limitation, “wherein the starch has been substituted with succinate,” was conceived of on or prior to 20 February 2003.

That diligence to reduce to practice the conception of the subject matter of present patent application which supports the claims of the present application including, but not limited to, the claim limitation, “wherein the starch has been substituted with succinate,” was begun on or prior to 20 February 2003.

That diligence was applied to the subject matter of present patent application which supports the claims of the present application including, but not limited to, the limitation, “wherein the starch has been substituted with succinate,” from a date on or prior to 20 February 2003 until at least 22 August 2003, the filing date of the present application.

That lab notebook page No. 12123-44 is evidence of conception and diligence in reduction to practice of the subject matter of present patent application which supports the claims of the present application including, but not limited to, the limitation, “wherein the starch has been substituted with

succinate," began on or prior to the date indicated on lab notebook page No. 12123-4, 20 February 2003.

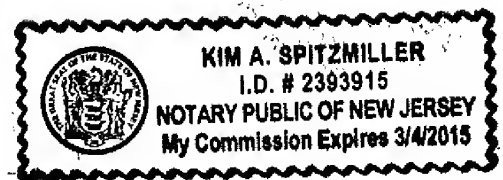
That lab notebook page No. 12123-44, submitted herewith, is from my lab notebook detailing work I began on or prior to 20 February 2003 and certified with my signature on 3 March 2003 which was witnessed by Robert Wojack on 17 June 2003 as indicated by his statement and signature at the bottom of the page.

That all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.



Dated: June 14, 2010

Robert L. Billmers



N^o 12123- 44

NATIONAL STARCH

Project No.

Date Started 2/20/03

Object To Make a Hylon Succinate For FF & Gas hydration inhibitors.

1 Kg 78-0342 (Super Fluidity Hylon VII)

40 g Succinic Anhydride

3% NaOH As needed

Procedure:

1 Kg of 78-0342 is slurried into 2L of Tap water in a 4L SS Beaker. The pH is adjusted to 8.0 using a pH controller and 3% NaOH. The Succinic Anhydride is ground in a mortar & pestle and slowly (over about 1/2 hour) sprinkled into the slurry while the controller keeps the pH \approx 8.0. When the addition is done and the pH is stable (no more caustic is being added). The reaction is filtered and washed with DI water and the cake crumbled and allowed to air dry.

A boiling waterbath cook of this product (@ 10% solids) cooked easily to a creamy, stable paste of moderate viscosity. The viscosity of the cook was stable (constant) for 3 days at room temp. (no retrogradation).

A sample was given to A. Jones for evaluation by spray-drying with PVP and then tested for gas hydrate inhibition.

A sample was submitted to D. Diel for evaluation in reduced fat FF Coatings.

WORK OF:

Robert L. Rubin

DATE: 01/03/03

I WITNESS THIS DOCUMENT AND UNDERSTAND ITS CONTENTS

Robert L. Rubin
Signature

6/17/03

Date